

Oliver J. H. Stiefel, OSB #135136
(503) 227-2212 | oliver@crag.org
Alexandria Dolezal, OSB #223924
(503) 224-0788 | alexandria@crag.org
CRAG LAW CENTER
3141 E. Burnside St.
Portland, Oregon 97214

Applicants Pro Hac Vice

Attorneys for Amici Curiae

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

OCEANA, INC.,

Plaintiff,

v.

NATIONAL MARINE FISHERIES SERVICE,

Defendant.

Case No. 3:24-CV-00279-SLG

**ORGANIZED VILLAGE OF KAKE, HOONAH INDIAN ASSOCIATION, AND
ORGANIZED VILLAGE OF KASAAN'S UNOPPOSED MOTION FOR LEAVE TO
FILE *AMICI CURIAE* BRIEF IN SUPPORT OF PLAINTIFF'S CROSS MOTION FOR
SUMMARY JUDGMENT**

The Organized Village of Kake, the Hoonah Indian Association, and the Organized Village of Kasaan (collectively, “Tribal Amici”), respectfully move this Court for leave to file the accompanying *amici curiae* brief in support of Plaintiff Oceana’s Cross-Motion for Summary Judgment filed in the above-captioned matter on July 7, 2025. ECF No. 26. Tribal Amici seek to address the importance of access to the photos and records requested by Oceana, particularly to the Tribal Amici’s interest in protection of marine mammals such as orcas. The undersigned conferred with counsel for Oceana and Federal Defendant prior to filing this motion; neither object to the filing of the amici curiae brief.

I. Legal Standard

“The district court has broad discretion to appoint amici curiae.” *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995). “[T]he classic role of amicus curiae [is to assist] in a case of general public interest, supplementing the efforts of counsel, and drawing the court’s attention to law that escaped consideration.” *Miller-Wohl Co. v. Comm’r of Labor & Indus., State of Mont.*, 649 F.2d 203, 204 (9th Cir. 1982). This Court has explained that amicus briefs are welcome “concerning legal issues that have potential ramifications beyond the parties directly involved or if the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Southcentral Found. v. Alaska Native Tribal Health Consortium*, No. 3:17-cv-00018-TMB, 2022 U.S. Dist. LEXIS 73469 at *4–5 (D. Alaska, April 21, 2022) (internal quotation marks omitted).

Neither the Federal Rules of Civil Procedure nor this Court’s Local Rules establish a procedure for the participation of amicus curiae at the District Court. The Federal Rules of Appellate Procedure, however, provide relevant guidance. Federal Rule of Appellate Procedure

29(a)(6) provides that a motion to file an amicus brief should be filed no later than seven days after the principal brief of the party being supported is filed. An amicus brief may be no more than one-half the maximum length of a party's principal brief. FED. R. APP. P. 29(a)(5).

Moreover, a movant must state its interest and the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case. FED. R. APP. P. 29(a)(3).

II. Argument

A. The Amici Brief is Timely and Within Length.

Granting this motion will not disrupt the existing briefing schedule or prejudice any party. Because Tribal Amici are supporting Oceana in this case, and because Oceana's brief was filed on July 7, 2025, ECF No. 26, Tribal Amici's brief is timely filed today on July 14, 2025. Tribal Amici's brief is 15 pages in length, under half of Oceana's brief at 35 pages in length.

B. Tribal Amici's Interest in This Case.

Tribal Amici comprise members of the Tlingit and Haida people of the lands now known as Southeast Alaska. These Tribes have lived in the areas on and around the North Pacific Ocean since time immemorial. As nomadic and seafaring people, the Tlingit and Haida have deep spiritual and kinship relationships with the marine mammals of this area. The Tribes' cultures are multilayered, present in their languages, stories, traditions, dance, art, and relations. The amici curiae brief shares some of the key relations between Tribal Amici and orcas, but there is much depth and richness that cannot be conveyed by the words in this filing.

Orcas are very sacred to Tribal Amici. Orcas are considered a symbol of power and strength, family, and community. Some Tribes consider the orca a special protector of humankind. The deep relationship with the orca is evidenced by their position in clan structures and oral histories. For example, Tlingit and Haida societies have the Raven and the Eagle or

Wolf as their primary clans, or moieties, with orca as one of the matrilineal sub-clans, lineages, or crests. Orca pods are also matrilineal—there are strong parallels that reflect and deepen the connection between Tribal members and orcas. Clan membership is displayed through family crests, carved in totem poles, canoes, cedar boxes, masks, and other objects. The orca is therefore also a prominent figure in the artistry and design of the Tribal Amici.

Known as Kéet in the Tlingit language and Ska'na in the Haida language, orcas are revered as the most powerful inhabitant of the undersea world. The Tlingit and Haida share a similar story about how the orca was first created, and why orcas never harm humans. The leaders of the Tribal Amici have never known an orca to harm or threaten a human on the ocean, despite many close encounters. Tribal Amici have many other stories about the orca and its role in the natural world.

Respect for nature is also central to the beliefs and practices of Tribal Amici. The Tlingit believe that every creature has a soul and all life is of equal value; plants, trees, birds, fish, animals, and human beings are equally respected. Haida culture is born of respect and intimacy with the land and sea and the air. Through these oral histories and cultural beliefs and practices, the Tribal Amici continue to advocate for the protection of the sacred orca and other marine mammals today.

The Organized Village of Kake is an Alaska Native community, with headquarters located on the northwest point of what is now known as Kupreanof Island in Southeast Alaska. The name Kake comes from the Tlingit word Kéix' or Kéex'—meaning 'mouth of dawn' or 'opening of daylight.' Kake abuts the Tongass National Forest and the Keku Strait and Frederick Sound, in the abundant waters of the Inside Passage. Tlingit people have inhabited the area since time immemorial, relying on the forest and the sea for cultural, social, and subsistence needs.

The Tribal Government of the Village of Kake works to preserve and sustain cultural traditions, enhance Tribal Members' quality of life, and advocate for the protection and preservation of customary and traditional areas and gathering practices.

The Hoonah Indian Association (HIA) is the federally recognized Tribal government of the Huna Tlingit (Xunaa Lingít) people, based in the community of Hoonah on the northwest shore of Chichagof Island in Southeast Alaska. The town's name means "Sheltered from the North Wind." The Huna Tlingit have inhabited and stewarded this region—including what is now Glacier Bay National Park, Icy Strait, and Cross Sound—for countless generations, relying on marine mammals and ocean ecosystems for food security, cultural identity, and community well-being.

Marine mammals such as orcas (kéet), humpback whales (yáay), sea lions (taan), seals (tsaa), and sea otters (yáxwch') are integral to the spirituality, culture, and way of life of the Huna Tlingit. The HIA oversees a wide range of environmental and marine conservation initiatives in its ongoing mission to be Stewards of Land, Sea, and Sky. As dedicated environmental stewards and Indigenous inhabitants of this region, HIA has a vital interest in ensuring transparency and accountability in the management of marine resources. The HIA believes that community value and voice is a crucial part of making informed decisions during the environmental planning and resource management process. Access to information about marine mammal bycatch is essential to the HIA's efforts to protect vulnerable species, support Tribal participation in fisheries and marine management, and safeguard the traditional relationships that connect the Huna Tlingit people to the ocean.

In the waters surrounding Kasaan—our Haida village on Prince of Wales Island—orca whales, or *Sgaana*, glide through the sea with grace and power. To the Haida people, these

beings are not just marine mammals; they are ancestors, protectors, and spiritual kin. Their stories are carved into our totem poles, sung in our songs, and passed down through generations.

The Organized Village of Kasaan (OVK) is committed to “promoting, preserving, and protecting indigenous Haida identity and values for our elders and youth.” We do this by drawing on our Traditional Ecological Knowledge (TEK)—wisdom rooted in centuries of observation and relationship with the land and sea. Orcas are central to that knowledge. They teach us about balance, respect, and the interconnectedness of all life.

Our people have long relied on the ocean for food, culture, and survival. Today, food sovereignty is a critical part of our mission. Protecting the marine ecosystems that sustain salmon, halibut, and other traditional foods also means protecting the orcas who depend on them. When we safeguard orcas, we are also defending our right to harvest, prepare, and share the foods that nourish our bodies and spirits. In Kasaan, orcas are more than symbols—they are reminders of our responsibilities. As we work toward a future of cultural and ecological resilience, we call on others to recognize the orca not just as a species, but as a sacred relative. Their survival is tied to ours.

Tribal Amici share an interest in the protection of orcas and other marine mammals. They consider these animals their relations, and are deeply concerned by reports of their injury and death caused by commercial fishing operations. Allowing tribal members and members of the public, including Plaintiffs, to access the information held by NMFS, supports the Tribal Amici’s advocacy efforts to protect these orcas that are sacred to them.

C. Tribal Amici’s Briefing is Desirable and Relevant.

This case has implications beyond the general public’s access to information, notably, Tribal Amici’s ability to further their interests in protecting marine mammals. Government

transparency and access to fisheries information is crucial to Tribal Amici's ability to understand the impacts of industrial trawling on the marine resources that support their subsistence, cultural, economic, and spiritual needs. Tribal Amici are uniquely able to present this information to the Court, and briefing on these issues will assist the Court's understanding of the issues here.

CONCLUSION

For the reasons set forth above, Tribal Amici respectfully request that the Court grant leave to file the accompanying *amici curiae* brief in support of Oceana's Cross-Motion for Summary Judgment.

Respectfully submitted this 14th day of July 2025.

/s/ Oliver J. H. Stiefel

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of July 2025, a true and accurate copy of MOTION FOR LEAVE TO FILE AMICI BRIEF was filed electronically via the CM/ECF system by the United States District Court, District of Alaska.

DATED this 14th day of July, 2025

/s/ Oliver J. H. Stiefel

Oliver J. H. Stiefel

Of Counsel for Tribal Amici